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**UTAH LABOR COMMISSION**

**JOHN R. GEHRIG,**

**Petitioner,**

**vs.**

**DEVOGE ELECTRIC and  
WORKERS COMPENSATION  
FUND,**

**Respondents.**

**ORDER OF REMAND**

**Case No. 07-0611**

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Devoge Electric and Workers Compensation Fund (jointly referred to as “Devoge”) ask the Utah Labor Commission to review Administrative Law Judge Holley’s award of benefits to John R. Gehrig under the Utah Workers’ Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63-46b-12 and § 34A-2-801(3).

**BACKGROUND AND ISSUE PRESENTED**

Mr. Gehrig claims workers’ compensation benefits from Devoge for a work accident that occurred on September 1, 2006, allegedly causing injury to his back. After holding an evidentiary hearing, Judge Holley declined to appoint a medical panel, concluding there was no conflict in the medical opinions on the issue of medical causation, and then awarded benefits.

In its motion for review, Devoge argues that Judge Holley should have appointed a medical panel due to conflicts in the medical opinions.

**FINDINGS OF FACT**

The Commission adopts Judge Holley’s findings of facts. The facts material to the issue in the motion for review are cited as follows:

Mr. Gehrig worked for Devoge as an electrician. Six weeks prior to the work accident at issue, Mr. Gehrig was treated for sciatica. However, he reported that the symptoms had completely resolved until the events of September 1, 2006. On September 1, 2006, Mr. Gehrig ran towards a security gate that had begun to shut and felt momentary pain on his left side from his low back to his left calf. Mr. Gehrig worked throughout the morning, moving and lifting 100-pound bundles of transformer wire, until approximately 11 a.m. when he lifted a bundle and felt immediate pain that caused him to collapse. Mr. Gehrig was diagnosed with lumbosacral radiculopathy.

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Mr. Gehrig's physician, Dr. Matthew, opined that Mr. Gehrig had no preexisting condition that contributed to the work accident and that it was the accident that caused Mr. Gehrig's back condition. At Devoge's request, Dr. Anderson examined Mr. Gehrig and completed a medical report. When responding to the question of whether there is a medically demonstrative causal connection between the work accident and Mr. Gehrig's back condition, Dr. Anderson responded "No." In providing a rationale for his conclusion, Dr. Anderson attributed the back condition to Mr. Gehrig's preexisting condition because "the simple act of running does not rise to the level of causation for an industrial accident."

**DISCUSSION AND CONCLUSION OF LAW**

Rule 602-2-2 of the Commission's rules provides that medical panels will be used in those cases "where one or more significant medical issues may be involved . . . . Significant medical issues are involved when there are . . . conflicting medical opinions related to causation of the injury or disease. . . ." Judge Holley interpreted Dr. Anderson's medical opinion to be a conclusion of legal causation, rather than medical causation, and concluded that Dr. Anderson's opinion offered no medical opinion on the issue of medical causation. Accordingly, Judge Holley concluded that, absent Dr. Anderson's opinion on medical causation, there was no conflict in the medical opinions and therefore an appointment of a medical panel was unnecessary. Relying on Dr. Matthew's opinion on medical causation, Judge Holley awarded benefits.

Although Dr. Anderson's explanation for his opinion may have been unartfully phrased, the Commission finds that Dr. Anderson provided a decisive opinion that there was no medical causation. Thus, because we find there was a dispute in the medical opinions between Drs. Matthew and Anderson, the Commission concludes that this conflict requires appointment of a panel under Rule 602-2-2(1). For the foregoing reasons, the Commission remands the case to Judge Holley for appointment of a medical panel to evaluate the medical aspects of Mr. Gehrig's claim.

**ORDER**

The case is remanded to Judge Holley for appointment of a medical panel as consistent with this decision. It is so ordered.

Dated this 24<sup>th</sup> day of April, 2008.

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Sherrie Hayashi  
Utah Labor Commissioner